

Internal Revenue Service, Treasury

§ 31.3406(a)-2

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§ 31.3406(i)-1 Effective date.

[T.D. 8637, 60 FR 66112, Dec. 21, 1995, as amended by T.D. 8734, 62 FR 53493, Oct. 14, 1997; T.D. 9010, 67 FR 48759, July 26, 2002]

§ 31.3406(a)-1 Backup withholding requirement on reportable payments.

(a) *Overview.* Under section 3406, a payor must deduct and withhold 31 percent of a reportable payment if a condition for withholding exists. *Reportable payments* mean interest and dividend payments (as defined in section 3406(b)(2)) and other reportable payments (as defined in section 3406(b)(3)). The conditions described in paragraph (b)(1) of this section apply to all reportable payments, including reportable interest and dividend payments. The conditions described in paragraph (b)(2) of

this section apply only to reportable interest and dividend payments.

(b) *Conditions that invoke the backup withholding requirement*—(1) *Conditions applicable to all reportable payments.* A payor of a reportable payment must deduct and withhold under section 3406 if—

(i) The payee of the reportable payment does not furnish the payee's taxpayer identification number to the payor, as required in section 3406(a)(1)(A) and § 31.3406(d)-1; or

(ii) The Internal Revenue Service or a broker notifies the payor that the taxpayer identification number furnished by its payee for a reportable payment is incorrect, as described in section 3406(a)(1)(B) and § 31.3406(d)-5.

(2) *Conditions applicable only to reportable interest or dividend payments.* A payor of a reportable interest or dividend payment must deduct and withhold under section 3406 if—

(i) The Internal Revenue Service or a broker notifies the payor that its payee has underreported interest or dividend income, as described in section 3406(a)(1)(C) and § 31.3406(c)-1; or

(ii) The payee fails to certify to the payor or broker that the payee is not subject to withholding due to notified payee underreporting, as described in section 3406(a)(1)(D) and § 31.3406(d)-2.

(c) *Exceptions.* The requirement to withhold does not apply to certain minimal payments as described in § 31.3406(b)(4)-1 or to payments exempt from withholding under §§ 31.3406(g)-1 through 31.3406(g)-3.

(d) *Cross references.* For the definition of *payor*, see § 31.3406(a)-2. For the definition of *taxpayer identification number*, see § 31.3406(h)-1(b).

[T.D. 8637, 60 FR 66114, Dec. 21, 1995]

§ 31.3406(a)-2 Definition of payors obligated to backup withhold.

(a) *In general.* *Payor* means the person that is required to make an information return under section 6041, 6041A(a), 6042, 6044, 6045, 6049, 6050A, or 6050N, with respect to any reportable payment (as described in section 3406(b)), or that is described in paragraph (b) of this section.

(b) *Persons treated as payors.* The following persons are treated as payors for purposes of section 3406—